

Minneapolis City Planning Department Report

Vacation 1401

Date: March 31, 2003

Applicant: Jennie L. Martin

60-Day Review Decision Date: Not Applicable

Address of Property: The part of 58th Street East, east of Clinton Avenue South and west of Diamond Lake (north of 5801 Clinton Avenue).

Contact Person and Phone: Jennie L. Martin 612-866-5569

Planning Staff and Phone: Jim Voll 612-673-3887

Ward: 11 **Neighborhood Organization:** Hale, Page, Diamond Lake

Existing Zoning: The surrounding area is zoned R1 Single-family residential.

Comprehensive Plan: The land use map in the comprehensive plan shows this area a mainly single-family residential.

Proposed Use: Landscaping and fencing.

Background: The applicant currently maintains the area and proposes to use it for landscaping and fencing.

Development Plan: A drawing of the proposed landscaping and fencing is attached.

Other Zoning Applications Required: No other approvals are required.

Responses from Utilities and Affected Property Owners: Minneapolis Public Works originally opposed the vacation, but will support it if a sewer easement is maintained over, under, and across the entire vacated area and if no permanent structures will be allowed on the vacated area. In addition, they would want the condition that the removal or replacement of any improvements to the property, including but not limited to landscaping and fencing, will be the sole responsibility of the property owner. The city has storm sewer facilities in the right-of-way that they need to be able to access and maintain. There are two pipes. One is 54 inches and the other is 66 inches. There is the possibility of adding water treatment devices in the future.

Xcel energy has facilities in the right-of-way and requests an easement over the south 15 feet of the proposed vacated area and a strip of land 7½ feet wide on either side of the centerline of the electrical distribution line running along the easterly portion of the vacated area as said electrical distribution line is currently located.

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Qwest has buried utilities in the right-of-way and requests an easement over their facilities at least 10 feet wide, seven feet on one side and three feet on the other.

The Hale, Page, Diamond Lake neighborhood group in opposition to the vacation is attached.

While the right-of-way could be vacated, subject to the retention of easements, Planning staff is concerned over the loss of this right-of-way. The right-of-way provides a public access to Diamond Lake. While there are no plans at this time to create an access to the lake, the city should preserve its options should a future need develop. The applicant should be able to receive an encroachment permit from Public Works to allow landscaping.

Findings: The City Planning Department finds that the area proposed for vacation is needed for public purpose and that it can not be vacated.

If it is vacated it shall be on the condition that easements requested above are granted by the petitioner.

Recommendation of the City Planning Department:

The City Planning Department recommends that the City Planning Commission and the City Council accept the above findings and deny the vacation. If the vacation is granted it shall be subject to the granting of easements to the City Of Minneapolis, Xcel, and Qwest, and subject to the condition that no permanent structures be allowed on the vacated area and that removal and replacement of any improvements to the property, included but not limited to landscaping and fencing, will be the sole responsibility of the owner.

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(Resolution to be used only if street is vacated)

Schiff

Vacating that part of 58th Street East, east of Clinton Avenue South and west of Diamond Lake.
(Vacation File No. 1401).

Resolved by The City Council of The City of Minneapolis:

That all that part of 58th Street East, east of Clinton Avenue South and west of Diamond Lake is hereby vacated except that such vacation shall not affect the existing easement right and authority of the City of Minneapolis, Xcel, and Qwest, their successors and assigns, to enter upon that portion of the aforescribed street which is described in regard to each of said corporation(s) as follows, to wit:

As to Xcel:

As to Qwest:

***Delete (NOTE: If the City has easements use last two paragraphs, if no City easement, just utilities, use the following paragraph.)

to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said street upon or within the above-described areas without first obtaining the written approval of the corporation(s) having utility facilities located within the area involved authorizing them to do so.

to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations and the City of Minneapolis, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said street upon or within the above-described areas without first obtaining the written approval of the corporations and the Director of Public Works of the City of Minneapolis having utility facilities located within the area involved authorizing them to do so.

Where the area described above in regard to any of the other corporations, or any part thereof lies within the area described above in regard to the City of Minneapolis, the rights reserved to the other corporation or corporations shall be subordinate to the rights reserved to the City of Minneapolis to the same extent that said rights would be subordinate if this street had not been vacated.